IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 365/2006
(Pal Singh Vs. State of Rajasthan & Ors.)

Date of Order : 08/09/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Manoj Bohra on behalf of
Mr. Rajesh Joshi for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 10.12.2005 passed by Additional Sessions Judge, Anupgarh (for short 'the revisional court' hereinafter) whereby the revision petition filed by the petitioner against the order dated 28.6.2003 passed by Additional Chief Judicial Magistrate, Anupgarh (for short 'the trial court' hereinafter) dismissing the application filed by the petitioner under Section 319 Cr.P.C., was dismissed.

I have heard learned counsel for the petitioner and carefully gone through the orders passed by the courts below.

On an FIR lodged by the petitioner complainant, police filed challan against certain persons, however, the non-petitioners No.2 to 5 were not challaned by the police. After the

statements of some of the prosecution witnesses namely PW-1 Jarnail Singh, PW-3 Pal Singh and PW-4 Veerpal Kaur, the complainant petitioner filed an application under Section 319 Cr.P.C., that application came to be dismissed by the trial court by a well reasoned order. On perusal of the orders impugned, it appears that some of the witnesses do not even show the presence of the non-petitioners. PW-4 Veerpal stated that non-petitioner Darshan Singh had thrown boiled dal on Pal Singh, whereas injured Pal Singh does not say so. PW-1 Jarnail Singh did not support the prosecution case and has not named the non-petitioners No. 2 to 5 taking part in any occurrence.

Keeping in view the decision of Hon'ble Supreme Court in Michael Machado & Anr. Vs. Central Bureau of Investigation & Anr., AIR 2000 SC 1127, in my view, both the courts below were justified. More so, at the time of dismissal of the appliation only one witness was remained to be examined and almost the trial was near to the conclusion. By now, the trial might have been concluded. In the circumstances, therefore, no case for interference is made out.

The criminal misc. petition is therefore, dismissed.

(H.R.PANWAR),J.

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